IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IN RE: CASE NO: 11-54031K

DANNY BROOKS

DEBTOR(S) CHAPTER 13 PROCEEDING

MOTION FOR HARDSHIP DISCHARGE PURSUANT TO 11 U.S.C. § 1328(b)

AN ORDER WILL BE ENTERED GRANTING THE RELIEF REQUESTED HEREIN WITHOUT FURTHER HEARING UNLESS A WRITTEN OBJECTION AND REQUEST FOR HEARING IS FILED WITH THE CLERK WITHIN TWENTY-ONE (21) DAYS OF THE DATE OF ISSUANCE OF THIS NOTICE. ANY SUCH OBJECTION MUST ALSO BE SERVED UPON THE MOVING PARTY AND UPON ALL OTHER PERSONS INDICATED ON THE CERTIFICATE OF SERVICE ATTACHED TO THIS PLEADING.

TO THE RIGHT HONORABLE BANKRUPTCY JUDGE:

Comes Now, Debtor, by and through his attorney of record, Ricardo Ojeda, Jr., and files this Motion for Hardship Discharge Pursuant to 11 U.S.C. § 1328(b), and would show as follows:

I.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. § 1334. This is a "core proceeding" pursuant to 28 U.S.C. § 157(b)(2) arising in a voluntary case commenced under Title 11 U.S.C. this is a contested matter brought pursuant to L. Rule 9014 of the Federal Rules of Bankruptcy Procedure.

II.

BACKGROUND

Debtor filed a Chapter 13 Bankruptcy case on January 21, 2011. The Chapter 13 plan was confirmed on October 22, 2012. The applicable commitment period was 60 months. The plan was confirmed as a 60-month plan.

III.

GROUNDS FOR DISCHARGE

At the time of filing, the Debtor owned and operated a funeral home. Although his wife is employed, the income generated from the funeral home was the Debtor's main source of income. The Debtor began to suffer from various health issues/concerns and was no longer able to work as before. The Debtor's wife is still employed with the same employer, but the Debtor's income has decreased significantly. The Debtor has made 59 payments into the plan. Additionally, the Debtor agreed to turnover insurance proceeds from the hail damage to his vehicle (which he believed to be exempt) to the Trustee so that his unsecured creditors could get a larger percentage. At this point, the Debtor cannot make any more payments due to his decreased income and overall financial situation. Modification of the plan under section 1329 of this title is not practical.

IV.

EFFECT OF DISCHARGE

Debtor would further show that the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the Debtor had been liquidated under Chapter 7 of this title on such date.

PRAYER

Wherefore, premises considered, Debtor prays the Court grant this Motion for Hardship Discharge Pursuant to 11 U.S.C. § 1328(b) and for such and further relief as is just.

Respectfully submitted,

/s/ Ricardo Ojeda Jr

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DEBTOR(S) CHAPTER 13 PROCEEDING

ORDER APPROVING MOTION FOR HARDSHIP DISCHARGE PURSUANT TO 11 U.S.C. § 1328(b)

On this date came on to be considered Debtor's Motion for Hardship Discharge Pursuant to 11 U.S.C. § 1328(b). Notice of the filing of said Motion was issued to all parties in interest in this proceeding. It appearing to the Court that no objection to such Motion has been filed and that the Motion has merit, the Court finds that the Motion should be approved.

It is, therefore, **ORDERED**, that the Motion for Hardship Discharge Pursuant to 11 U.S.C. § 1328(b) is **GRANTED**.

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THIS ORDER WAS PREPARED AND SUBMITTED BY:

OJEDA LAW OFFICE
King William Professional Building
809 S. St. Mary's St.
San Antonio, TX 78205
(210)349-3232
(210)349-3239(fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Hardship Discharge was mailed on the 13th day of April, 2017to:

11-54031-rbk|U.S. BANKRUPTCY COURT|615 E. HOUSTON STREET, ROOM 597|SAN ANTONIO, TX 78205-2055||||
11-54031-rbk|ACE Cash Express |414 S. New Braunfels|San Antonio, TX 78203-1737| |||
11-54031-rbk|Ace Cash Express |1231 Greenway Drive, Suite 700|Irving, TX 75038-2556| |||
11-54031-rbk|Air Cantu LLC |PO BOX 23367|San Antonio, TX 78223-0367| |||
11-54031-rbk|Attorney General of the US |Main Justice Bldg #5111|10th & Constitution Ave NW|Washington, DC 20530-0001| ||
11-54031-rbk|Bank of America |450 American St. SV|Simi Valley, CA 93065-6285| |||
11-54031-rbk|Citi |c/o Midland Credit Management|8875 Aero Dr.|San Diego, CA 92123-2251| ||
11-54031-rbk|Conn Credit Corp |3295 College St|Beaumont, TX 77701-4611| |||
11-54031-rbk|County News INC |PO BOX 35919|Tulsa, OK 74153-0919| |||
11-54031-rbk|Eagle's Wings Air |c/o CST CO|PO BOX 224768|Dallas, TX 75222-4768| ||
11-54031-rbk|Ford Acceptance Corporation |21 S. Evergreen Avenue #230|Arlington Heights, IL 60005-7800| |||
11-54031-rbk|GCA Investments, INC |PO BOX 2656|Universal City, TX 78148-1656| |||
11-54031-rbk|GE Money Bank |c/o Midland Credit Management|8875 Aero Dr.|San Diego, CA 92123-2251| ||
11-54031-rbk|Home Depot/CitiBank |P.O. BOX 6497|SIOUX FALLS, SD 57117-6497| |||
11-54031-rbk|Inman Shipping Worldwide |PO BOX 863989|Orlando, FL 32886-3989| |||
11-54031-rbk|Internal Revenue Service |PO Box 7346|Philadelphia, PA 19101-7346| |||
11-54031-rbk|J. Robert Davis Law Offices of J. Robert Dav|8200 IH 10 West Suite 730|San Antonio, TX 78230-3807| |||
11-54031-rbk|Judson ISD Tax Office |8012 Shin Oak Dr.|Live Oak, TX 78233-2413| |||
11-54031-rbk|KCHL-AM |PO Box 200880|San Antonio, TX 78220-0880| |||
11-54031-rbk|KCTI AM Radio |615 St. Pail|Gonzales, TX 78629-3551| |||
11-54031-rbk|Law Offices of J. Robert Davis LLP |8200 IH-10 West, Suite 730|San Antonio, TX 78230-3807| |||
11-54031-rbk|Lease Finance Group |233 N Michigan Ave, Suite 1800|Chicago, IL 60601-5802| |||
11-54031-rbk|Lowe's |PO Box 965005|Orlando, FL 32896-5005| |||
11-54031-rbk|Maria Luisa Holmgreen |7801 Broadway STE 230|San Antonio, TX 78209-2580| |||
11-54031-rbk|Matthews International Corp. |c/o Penny K. Habbeshaw|Habbeshaw Kalmans PC|9901 IH 10 West, Suite 460|San Antonio, TX 78230-2366| |
11-54031-rbk|Matthews International Corporation |2 North Shore Center|Pittsburgh, PA 15212-5851| |||
11-54031-rbk|Midland Credit Management, Inc. |2365 Northside Drive, Suite 300|San Diego, CA 92108-2709| |||
11-54031-rbk|National Capital Management, LLC. |PO BOX 41117|Norfolk, VA 23541-1117| |||
11-54031-rbk|Nationstar Mortgage |c/o Kirk A. Schwartz|5450 NW Central Drive, #307|Houston, TX 77092-2063| ||
11-54031-rbk|NATIONSTAR MORTGAGE LLC|PO BOX 619096|DALLAS TX 75261-9096||||preferred

11-54031-rbk|Neutron |7107 North Black Canyon HWY|Phoenix, AZ 85021-7661| |||
11-54031-rbk|Pathology Associates |c/o Business and Professional Service|621 N. Alamo|San Antonio, TX 78215-1836| ||
11-54031-rbk|Pendrick Capital Partners LLC |c/o Harvard Collection|4839 N Elston Ave|Chicago, IL 60630-2534| ||
11-54031-rbk|PORTFOLIO RECOVERY ASSOCIATES LLC|PO BOX 41067|NORFOLK VA 23541-1067||||preferred
11-54031-rbk|Pushpin Holdings, LLC |1 Penn Plaza|P.O. Box 6255|New York, NY 10150-6255| ||
11-54031-rbk|Quantum3 Group LLC as agent for |ACE Cash Express INC|PO Box 788|Kirkland, WA 98083-0788| ||
11-54031-rbk|Ricardo Ojeda, Jr. |Ojeda Law Office|4423 NW Loop 410, Ste. 200|San Antonio, TX 78229-5186| ||
11-54031-rbk|River City Care Center |921 Nolan St|San Antonio, TX 78202-2323| |||
11-54031-rbk|SANTANDER CONSUMER USA |P.O. BOX 560284|DALLAS, TX 75356-0284| |||
11-54031-rbk|Sand Dollar Pools |c/o Account Services|1802 NE Loop 410 STE 400|San Antonio, TX 78217-5221| ||
11-54031-rbk|Santander Consumer USA |PO Box 961245|Fort Worth, TX 76161-0244| |||
11-54031-rbk|Sylvia Romo |Tax Assessor-Collector|P.O. Box 839950|San Antonio, TX 78283-3950| ||
11-54031-rbk|Triad |10305 Big Bend Blvd|Saint Louis, MO 63122-6427| |||
11-54031-rbk|U.S. BANK, NATIONAL ASSOCIATION |c/o Maurice Hinton, Esq.|ROBERTSON, ANSCHUTZ & SCHNEID, PL|Attorney for Secured Creditor|3010 N. Military Trail, Suite 300|Boca Raton, FL 33431-6393|
11-54031-rbk|US Attorney's Office |601 NW Loop 410, Ste. 600|San Antonio, TX 78216-5597| |||
11-54031-rbk|United States Trustee - SA12 |US Trustee's Office|615 E Houston, Suite 533|PO Box 1539|San Antonio, TX 78295-1539 ||
11-54031-rbk|Walmart |PO Box 981400|El Paso, TX 79998-1400| |||
11-54031-rbk|Willie Gaines |c/o Law Offices of J. Robert Davis LLP|8200 IH-10 West, Suite 730|San Antonio, TX 78230-3807| ||
11-54031-rbk|Wilshire Credit Corp |450 American St. SV416|Simi Valley, CA 93065-6285| |||
11-54031-rbk|Yellow Pages |PO BOX 41308|Jacksonville, FL 32203-1308| |||
11-54031-rbk|Yolanda Brooks |7302 Ben Hogan CT|San Antonio, TX 78244-1500| |||
11-54031-rbk|c/o Maurice Hinton, Esq. |ROBERTSON, ANSCHUTZ & SCHNEID, PL|Attorney for Secured Creditor|3010 N. Military Trail, Suite 300|Boca Raton, FL 33431-6393| |
11-54031-rbk|Danny Brooks |7302 Ben Hogan CT|San Antonio, TX 78244-1500||||
11-54031-rbk|Mary K Viegelahn |Chapter 13 Trustee|10500 Heritage Blvd Suite 201|San Antonio, TX 78216-3631|||

/s/ Ricardo Ojeda Jr
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